

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.21738 OF 2006

ORAL ORDER:

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This writ petition is filed seeking a declaration that the sale notice dated 29.9.2006 issued by the 1st respondent-Bank under Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act"), proposing to sell the plant and machinery of M/s Narayanaswami Boiled Industries (Rice Mill), situated at Boppudi village, Chilakaluripet, as arbitrary and illegal.

It is claimed that under a rental agreement dated 11.4.2006, the said rice mill was leased out by the 3rd respondent in favour of the petitioner for a period of one year. It is stated that on 12.4.2006 itself the petitioner had taken possession of the rice mill and has been operating the same. The petitioner pleaded that from the impugned sale notice dated 20.9.2006, he came to know that the 3rd respondent availed a loan from the 1st respondent-Bank by creating mortgage in respect of the rice mill in question and that since he failed to discharge the loan, the 1st respondent-Bank proposed to put the rice mill to public auction under the provisions of the Act. The petitioner contended that as a matter of fact, the 3rd respondent is having substantial amounts to discharge the debt, but all the respondents have colluded together and issued the impugned sale notice so as to dispossess the petitioner illegally during the subsistence of the lease. It is pleaded by the petitioner that he had already paid Rs.10.00 lakhs towards the amount due to the 1st respondent-Bank.

From the material on record, it is clear that the impugned sale notice has been issued invoking the provisions of Section 13 of the Act.

Under Section 17 of the Act any person aggrieved by any of the measures referred to under Section 13(4) of the Act taken by the

secured creditor may make an application to the Debts Recovery Tribunal having jurisdiction over the matter. If any such application is made, the Tribunal after examining the facts and the evidence produced by the parties will pass appropriate orders in accordance with law.

In the light of the said efficacious alternative remedy provided under the Act, without exhausting the same, the petitioner cannot maintain this writ petition.

Accordingly, granting leave and liberty to the petitioner to work out the alternative remedy available under the Act, the writ petition is disposed of. No costs.

(G. ROHINI, J.)

23rd October, 2006.
Issue CC in two days.
Kgr

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WRIT PETITION No.21738 OF 2006

23rd October, 2006.

Between:

Venigalla Ramesh Babu.

.. Petitioner.

And

Andhra Bank, S.S.I. Branch, represented by its
Authorised Officer, Koritipadu, Guntur and others.
Respondents.

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